UNITED NATIONS

General Assembly

FIFTIETH SESSION

Official Records

THIRD COMMITTEE
38th meeting
held on
Friday, 24 November 1995
at 10 a.m.
New York

SUMMARY RECORD OF THE 38th MEETING

Chairman: Mr. TSHERING (Bhutan)

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Distr. GENERAL
A/C.3/50/SR.38
24 January 1996
ENGLISH
ORIGINAL: FRENCH

95-82455 (E)

The meeting was called to order at 10.35 a.m.

AGENDA ITEM 112: HUMAN RIGHTS QUESTIONS (A/50/3)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (A/50/40, A/50/44, A/50/469, A/50/470, A/50/505, A/50/512, A/50/755)

(b) HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (A/50/440, A/50/452, A/50/495, A/50/514, A/50/566, A/50/653, A/50/678, A/50/682, A/50/685, A/50/6798, A/50/714, A/50/79, A/50/736)

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(d) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE VIENNA DECLARATION AND PROGRAMME OF ACTION (A/50/670)

(e) REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (A/50/56)

1. Mr. FALL (Assistant Secretary-General for Human Rights), introducing agenda item 112, said that as the United Nations High Commissioner for Human Rights had already presented his report to the Committee, dealing in large part with the comprehensive implementation of follow-up to the Vienna Declaration and Programme of Action, he would, for the sake of brevity, limit his introductory comments to three of the five points on the agenda.

2. With regard to agenda item 112 (a), the work of the bodies created in pursuance of international human rights instruments had been productive in 1995, particulary by strengthening the implementation mechanisms of the different instruments, which should help to improve their effectiveness and avert human rights violations.

3. During the previous two years, eight new States (Cape Verde, Georgia, Kyrgyzstan, Malawi, Namibia, Nigeria, Uzbekistan and Chad) had become parties to the international human rights treaties. As a result, 133 States were now parties to the International Covenant on Economic, Social and Cultural Rights and 131 were parties to the International Covenant on Civil and Political Rights. During the same period, 18 States (Germany, Belgium, Bosnia and Herzegovina, Croatia, El Salvador, the former Yugoslav Republic of Macedonia, Georgia, Latvia, Kyrgyzstan, Namibia, Uzbekistan, Paraguay and Chad) had become parties to the first Optional Protocol to the International Covenant on Civil and Political Rights and 9 States (Croatia, Denmark, the former Yugoslav Republic of Macedonia, Hungary, Italy, Malta, Namibia, Seychelles and Slovenia), had become parties to the second Optional Protocol, bringing the total number of ratifications to the first Protocol to 86 and the second to 29. While more and more States were ratifying those instruments, there was still some way to go

before their objectives had been achieved. For that reason, the Centre for Human Rights hoped to organize regional seminars and sponsor research projects to encourage States to ratify the instruments.

4. In its report (A/50/40), the Human Rights Committee had examined 15 reports presented by the States parties, in addition to a special report submitted by Haiti concerning the status of human rights protected by the Covenant. The Committee had decided to encourage the specialized agencies and other United Nations bodies to participate more actively in its deliberations, by presenting their comments during pre-sessional meetings of the Working Group, in order to prepare for talks between the Committee and the Governments of the States parties. The Committee had also adopted a General Comment identifying the principles of international law that applied to the making of reservations upon ratification or accession to the Covenant for the Optional Protocols thereto, by reference to which their acceptability is to be tested and their purport to be interpreted. That General Comment, which had addressed the role of States parties in relation to the reservations of other States parties and the role of the Committee itself in relation to those reservations, had made recommendations to present States parties and States which were not yet parties to the Covenant. The Committee had made some progress with the development of a General Comment on the right to participate in public affairs.

5. Since 1993, the Human Rights Committee had been working to develop its jurisprudence concerning the right to a fair trial, the right to life, extradition to a State party where the applicant faced the death penalty, and the "death row" problem. Several national courts had already begun to take into consideration the views made by the Committee, adopted under the Optional Protocol, when making judicial decisions. Follow-up activities on the Committee's views had also been pursued since 1993, including the follow-up mission by the Committee's Special Rapporteur to Jamaica, in June 1995.

6. With regard to the implementation of the International Covenant on Economic, Social and Cultural Rights, the Assistant Secretary-General for Human Rights welcomed the innovative mission carried out in Panama by the Committee on Economic, Social and Cultural Rights, seeking to help that country find new ways of implementing those rights, particularly the right to accommodation. By helping all parties involved to express their points of view and identify concrete steps which would translate that right into practical measures, che Committee had shown how such a mission can act as a catalyst for action. The Panamanian Government, whose full cooperation with the Committee had been much appreciated, had received the report outlining the recommendations of the mission.

7. The Committee's report (E/1995/22) had dealt with two sessions held in 1994, during which the Committee had examined 18 reports submitted by the States parties. The Committee had played a vital role in promoting economic, social and cultural rights, by formulating final views on the way in which States had fulfilled their Covenant obligations, by defining its General Comments as a basis for jurisprudence in that area, by discussing the question of the elaboration of an optional protocol to the Covenant that would allow individuals and groups to present legal complaints with regard to the violation of one or several of the rights protected by the Covenant, and by successfully conducting

its first technical assistance mission. The World Summit for Social Development had also underlined the importance of the Committee's activities.

8. The report of the Committee against Torture (A/50/44) had also been submitted to the Third Committee. As of 1 November 1995, 91 States had been parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of which 36 had made the declarations provided for in articles 21 and 22 of the Convention and 2 had made the declaration provided for in article 21, which made a total of 38 declarations under that article. During its 13th and 14th meetings, held in November 1994 and April-May 1995 respectively, the Committee against Torture had examined the reports presented by 11 States. It had continued its confidential inquiries and had examined 19 individual communications. The Assistant Secretary-General for Human Rights pointed out that the Committee's activities relating to confidential procedures had increased a great deal, since they had taken up nearly half the Committee's time, and that the number of items considered under article 22 of the Convention had also increased greatly. Therefore the Committee was of the opinion that a supplementary one-week regular meeting would be necessary every year to do all the work required of it. He hoped that the General Assembly would grant that request. The 5th meeting of States parties to the Convention would be held in Geneva on 29 November 1995 to elect five members to the Committee to replace those whose term expired on 31 December 1995.

9. Pursuant to the amendments to the Convention and to General Assembly resolution 47/111, activities undertaken within the framework of the Convention had been financed from the United Nations regular budget starting in January 1994. The amendments, however, would not take effect until they had been accepted by two thirds of the States which had been parties to the Convention when the amendments were adopted.

10. Concerning the United Nations Voluntary Fund for Victims of Torture, administered by the Secretariat with the assistance of a board of trustees, the Assistant Secretary-General recalled that the report on the activities of the Fund bore the symbol A/50/512. The Board of Trustees had recommended that the Secretary-General should subsidize 105 projects undertaken by 114 organizations in 60 countries for a total amount of US$ 2.7 million, which was only half the sum necessary for financing the projects planned for 1995.

11. He regretted that as of 1 November 1995, only five States had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and that two had signed it, when it could only take effect once 20 countries had ratified it or adhered to it.

12. Within the framework of effective implementation of the international instruments relating to human rights, including the duty to report, the Committee had received the report of the 6th meeting of persons chairing human rights treaty bodies (A/50/505). In that report, the Chairmen had made suggestions and formulated recommendations for improving the functioning of those bodies and had attached particular importance to the rights of women. They had also encouraged the committees to further develop the mechanisms for preventing serious violations of human rights (early warning and emergency procedure mechanisms) and had recommended that the committees should intensify

their consultations with the various bodies of the United Nations. Finally, the Chairmen had stressed the importance of the coordinated action undertaken by the bodies and specialized agencies of the United Nations to assist States in implementing the recommendations made by the human rights treaty bodies.

13. Report A/50/755, prepared pursuant to paragraph 12 of General Assembly resolution 49/178, provided information on the growing burden of work on the human rights treaty bodies, which had to study not only the reports of the States parties but also individual complaints, as well as on the number of Secretariat employees assigned to help them in their work.

14. Moving on to agenda item 112 (b), he said that he would only address certain issues.

15. The Committee had received the Secretary-General's report (A/50/452), which contained information on the various activities undertaken by the Centre for Human Rights to create new institutions for the promotion and protection of human rights, and to strengthen existing institutions. The Centre had organized two international meetings, one in Tunis in December 1993 and the other in Manila in 1995, which had provided an opportunity to evaluate the Paris Principles and to reflect on a programme of action to help States to set up such national institutions in the following years. Georgia, Indonesia, Kuwait, Latvia, Nigeria, Pakistan, Panama, Papua New Guinea, Slovenia and Sri Lanka had already requested technical assistance.

16. The number of persons displaced within their own country had grown constantly in 1995. The Special Representative of the Secretary-General would present his report on that phenomenon which affected some 30 million people.

17. With the proliferation of armed conflicts, mass exoduses had begun once again in many regions. The international community had realized that early warning, conflict prevention and a fairer distribution of the burden on host populations, would be indispensable in the future in guaranteeing effective protection and assistance.

18. On 3 May 1995, the Secretary-General had sent a note verbale to Member States to draw their attention to General Assembly resolution 49/185 and Commission on Human Rights resolution 1995/43, both entitled "Human rights and terrorism", and to seek their opinion on the possibility of creating a United Nations voluntary fund for victims of terrorism. Despite a reminder note verbale dated 6 September 1995, at that time only 11 countries had responded and they did not seem very favourable to the idea of creating a fund as provided for in paragraph 4 of resolution 49/185.

19. Since 1989, the General Assembly had each year asked the Commission on Human Rights to continue to give priority to the study of the factors which hindered respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes, and to report to the Committee. Report A/50/495 indicated that the Commission on Human Rights, at its 51st meeting, had studied a certain number of situations which involved questions related to the organizing and holding of elections. Although it had not taken any specific measures concerning those questions, the Commission had

referred to several resolutions relating to the question of elections that were aimed at guaranteeing the free expression of the will of the people, respect for national sovereignty and non-interference in the domestic affairs of the States concerned and in particular to the resolutions of the Commission on the situation of human rights in Afghanistan, Haiti, Myanmar, Togo and Zaire and on the question of the Western Sahara.

20. The World Conference on Human Rights and the Secretary-General in his report (E/CN.4/1995/74) had pointed out the negative consequences that some scientific advances - especially in biomedical sciences, life sciences and computer sciences - could have for the integrity and dignity of the individual and the exercise of his rights. It was therefore essential that States should cooperate in order to ensure that the rights and the dignity of the human person were fully respected in those areas.

21. The right to development now appeared to be the keystone of the human rights edifice. The Working Group on the Right to Development, when it had met in Geneva from 27 September to 6 October 1995, had considered the scope and implications of the Declaration on the Right to Development. In its final report, it had recommended that the Commission on Human Rights should entrust continuance of its work to an intergovernmental group of experts which would have as its mandate to continue to develop the conceptual aspect of the right to development and to formulate guidelines for the implementation of the Declaration as well as a world strategy to promote the full realization of that right. The Centre for Human Rights would be responsible for implementing a programme to disseminate and promote the Declaration on the Right to Development among Governments, parliaments and all the other actors concerned. That programme would encourage cooperation by the competent institutions and would also take account of the new ideas relating to sustainable development, the interdependence of democracy, development and human rights, global development and the importance of the role of women in development.

22. The Centre for Human Rights could enable Governments to derive benefit from its advisory services, and Government officials appointed to be responsible for the implementation of the Declaration could also receive training in the field of human rights, in particular the right to development. The Centre could also participate, in collaboration with UNESCO, in the formulation of criteria, programmes and educational material for the promotion of the right to development within the framework of the United Nations Decade for Human Rights Education. The Working Group also recommended, in accordance with Economic and Social Council decision 1995/258, that a unit should be established within the Centre to ensure the coordination of activities relating to the realization of the right to development.

23. At the present stage it should be emphasized that the High Commissioner, in presenting his report to the Third Committee, had not failed to report the impact that that final report had had on the restructuring process which had just been completed and which had taken the particular form of the organization within one of the five new branches of a special section dealing with the right to development and with economic, social and cultural rights.

24. Turning to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, he recalled that, in its resolution 1995/24, the Commission on Human Rights had decided to authorize the Subcommission to establish, initially for a three-year period, an inter-sessional working group consisting of five of its members, to meet each year to review the promotion of the Declaration on the rights of such persons with a view, in particular, to (a) considering the promotion of and respect for the Declaration in practice; (b) examining possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments; and (c) recommending further measures, as appropriate, for the promotion and protection of their rights.

25. With regard to the strengthening of the rule of law, he urged the international community to react more rapidly when faced with massive violations of human rights. He pointed out that it was through preventive rather than curative action that a genuine investment could be made in peace. In that connection, technical cooperation had an essential role to play. At present, in many regions of Africa and Asia, in Eastern Europe, Central Europe and America, human rights officials were working discreetly alongside national officials and non-governmental organizations. The Centre for Human Rights had established technical cooperation programmes in Cambodia, Malawi, Burundi and Rwanda. Those officials were participating in various training activities in the judicial apparatus, the army, the police and in national institutions for the respect of fundamental rights. While requests for technical assistance in that area had increased considerably in recent years, the level of available resources remained relatively low. He therefore hoped that the international community would gear itself more specifically towards an effective policy of prevention.

26. As for the human rights situation in Cambodia, he said he would leave it to the Special Rapporteur to comment on it.

27. Turning to agenda item 112 (c), he said that the hiatus that existed between some of the standards set by international instruments relating to human rights and their application had led to the establishment of extra-conventional procedures for strengthening the protection of human rights. Whether the mandates were subject-based or related to particular countries, such procedures, which were becoming increasingly numerous, made it possible for effective and urgent action to be taken when the fundamental rights of individuals or groups were in danger. They also ensured the availability of the factual information and impartial analyses that were necessary for objective inquiries and for the establishment of a constructive dialogue with the Governments concerned in order to secure their cooperation in particular cases of human rights violations. Furthermore, urgent appeals procedures were the means of interceding with Governments at the highest level.

28. Independent experts, however, favoured field missions at the invitation of the Governments concerned as a means of verifying the truth of allegations received and of analysing a situation with complete impartiality. Such missions enabled the experts to establish contact with the government authorities dealing with human rights matters, with national institutions and non-governmental organizations working in that area, and with the victims and witnesses of violations. In particularly critical situations, it was possible to establish a

continuous presence of human rights specialists in the field to gather information at first hand and transmit it to the experts concerned and, through the High Commissioner for Human Rights, to the Secretary-General, the Security Council, the General Assembly and any other relevant international institution. The creation of the post of High Commissioner for Human Rights had made it possible to integrate the elements of prevention and assistance into missions, which were then able to go beyond mere observation, and into programmes to promote national reconciliation, as, for example, in Rwanda and Burundi. The High Commissioner was also preparing the opening of a human rights monitoring station in Zaire, while other operations, like that in Cambodia, were geared more to technical assistance and advisory services. As for activities relating to the former Yugoslavia, the Special Rapporteur was currently benefiting from the assistance of a small team of officials from the Centre for Human Rights, but the future of the operation depended on the outcome of the peace negotiations which had just been completed in Dayton, Ohio.

29. It should be noted, however, that most operations outside Headquarters were dependent on voluntary contributions from Member States, and that their effectiveness was undermined by factors such as a chronic shortage of funding, delays in the transfer of funds, or uncertainty arising from the instability of that form of financing. For example, in the case of Burundi, the dispatch of an initial group of observers was still encountering financial difficulties, despite the fact that the Security Council and the Commission on Human Rights supported the mission and the Government of Burundi had confirmed its agreement. The human rights operation in the field in Rwanda was the first to have been set up under the authority of the High Commissioner. Its mandate included inquiries regarding genocide, observance of the current situation, and the restoration of a climate of confidence. Unfortunately, the activities of the person responsible for the operation were hampered by budgetary constraints.

30. Mr. VAN DER STOEL (Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in Iraq) said that, at the outset of his mission five years previously, he had been sceptical about the shocking allegations he had received but, after examining the details, the evidence and the testimony, he had been obliged to accept that they were true. Moreover, his interviews with the Iraqi authorities had shown that, far from considering changing their policies, they were interested only in the sanctions. In the end, they had refused all cooperation following the submission of his first report in February 1992, and had likewise rejected the "food-for-oil" formula proposed by the Security Council to resolve the problem of the food shortage in Iraq.

31. In his report A/50/734, he had listed a variety of violations, in particular cruel and unusual punishments, such as amputations and branding for theft and/or desertion. The law provided for such punishments, although it was a clear tenet of international law that there was absolutely no justification for torture or cruel or unusual punishment or treatment. The Government argued that it did not implement the decrees and had recently proclaimed amnesty laws, but the disfigured survivors of those brutal acts were proof that such torture continued, while the amnesty decrees applied only to persons who had been formally "convicted" and "sentenced", and only to Iraqi citizens and did not cover the very frequently invoked crime of "espionage", and were applied only upon endorsement by a member of the Arab Baath Socialist Party. Such conditions

deprived the amnesty decrees of any credibility, while international law and basic human decency demanded that the abhorrent decrees should be abrogated.

32. Since there was no time to summarize his report, he emphasized that the human rights situation in Iraq showed no sign of improvement. Two recent monitoring missions had revealed that arbitrary arrest and detention, disappearances, torture, cruel and unusual punishment and treatment and arbitrary execution continued to take place. Extreme repression ruled out all freedom of thought, conscience, belief, expression and association. In that repressive atmosphere, the recent so-called "referendum" on the President could only be regarded as an affront to democracy and, given that Decree No. 840 prescribed the death penalty for anyone who insulted the President, the courage of the 0.04 per cent who had dared to vote against him was to be admired. The Government had powerful means of exerting pressure on the population: it might even be said that the population was effectively held hostage, since the Government controlled access to food and health care. Its refusal to allow the United Nations to supervise the sale of oil and the distribution of humanitarian aid jeopardized the lives of millions of citizens and was difficult to understand since the conditions put forward by the Security Council could scarcely be interpreted as an infringement of Iraqi sovereignty, while acceptance of the formula would bring a quick end to the material suffering of the Iraqi people. The position of the Iraqi Government exemplified its contemptuous attitude towards international law, while it lamented that it was not being trusted by the international community. It was clear that it was the Government alone which was preventing the sale of billions of dollars of oil which could finance the purchase of badly needed supplies of food and medicines. As long as the Iraqi Government refused, it must be held responsible for a gross violation of its human rights obligations which affected millions of innocent victims.

33. Mr. PAIK (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan) said that Afghanistan was in a desperate situation on account of the continued armed conflict with its attendant massacres, disappearances and violations of human rights, and that the land mines which were still widely scattered throughout the country, despite the heroic operations of the demining programmes conducted by United Nations agencies and numerous non-governmental organizations still posed a danger. There was an acute shortage of clean water and food, and sanitation was in a deplorable condition. The collapse of the central authority also posed extreme difficulties for the protection of human rights, while the administration of justice continued to be arbitrary and local authorities were unable to prevent some sections of the population from engaging in arms dealing and trafficking in narcotics and cultural artifacts. The young people of Afghanistan continued to suffer from malnutrition and a lack of education; that did not encourage them to turn away from the surrounding violence and constituted a permanent factor of insecurity.

34. In view of that situation, the international community bore a moral obligation to provide emergency assistance and he therefore wished to submit a few recommendations. With regard to peace-building, the warring factions should be called upon to put an immediate end to the fighting - regardless of the reasons they might have for continuing - and the international community should

be asked to take concerted action to mobilize pressure against those who refused to lay down their arms.

35. With regard to humanitarian assistance, food, shelter and sanitation should be provided immediately to the people in refugee camps and villages (especially the 200,000 internally displaced persons in Jalalabad) as well as to the returnees, who numbered some 3 million. The international community should continue to render humanitarian assistance to Afghanistan in the form of mine clearance, support for voluntary repatriation, food aid, health-related assistance and clean water and sanitation, while the extent of existing aid should be increased in view of the fact that the Afghan population was increasingly destitute. Support for the United Nations consolidated inter-agency appeal recently launched by the Emergency Relief Coordinator would be an effective means of achieving that objective.

36. With regard to trafficking in narcotics, Afghanistan was emerging as one of the world's largest opium producers; appropriate international measures should therefore be taken to discourage Afghan farmers from continuing to grow poppies and to prevent external influences from manipulating them.

37. With regard to the victims of armed conflicts, priority should be given to the protection of vulnerable segments of the population (women, children and older persons) and, given the high rate of infant mortality, a world-wide programme of assistance for mothers and infants should be established with a view to providing the necessary medical care. The children of Afghanistan should be saved from the surrounding violence, the practice of recruiting minors as paracombatants should be stopped, and those who engaged in such activities should be subjected to punishment as mandated by the rules of international law. Finally, serious consideration should be given to the creation of an international fund for the education of children, both in Afghanistan and abroad.

38. The participation and collaboration of the Afghan people should be emphasized to enable them to reconstruct their society.

39. Regarding the coordination of humanitarian assistance, consultations were already in place among many United Nations bodies, but in addition the relevant organs of the United Nations, regional and international organizations such as the International Committee of the Red Cross, and various human rights non-governmental organizations should also intensify dialogue among themselves with a view to maximizing the benefit of humanitarian assistance. Also, in order to avoid duplication and strengthen the United Nations agency charged with coordinating aid to Afghanistan, efforts should be made to disseminate field information for the use of all humanitarian organizations and the United Nations Centre for Human Rights. Such efforts should be made on a permanent basis and should interact not only with the aforementioned umbrella agency, but also with all humanitarian organizations operating in Afghanistan.

40. To enable him to better fulfil his mandate, he called upon all Afghan authorities to continue to facilitate his on-site visits to every place where human rights violations had been reported.

41. Ms. REHN (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia) said that in the course of her first mission in the territory of the former Yugoslavia, in October 1995, she had been unable to visit the most sensitive areas of the region, with the exception of the former Sector North in Croatia. Her report (A/50/727-S/1995/933) was therefore based in part on information gathered by field officers of the Centre for Human Rights. The report focused on two main areas: Sectors North and South in Croatia, and Bosnian Serb-controlled territories in Bosnia and Herzegovina. The report contained details of serious human rights violations committed during and after the offensive known as "operation Storm", carried out by Croatia in order to recover the Krajina region. She commented briefly on its main points.

42. There had been some reports of mass executions following the fall of Srebrenica. It was of the utmost importance to clarify the fate of the persons missing from that town who were still unaccounted for, as well as the fate of all those who had been reported missing throughout the conflict. In the Banja Luka area, where the human rights situation continued to be very serious, immediate steps were required to protect the non-Serbian population. Also, immediate steps should be taken to ensure the safety of Bosnian Muslim followers of Fikret Abdic in the Velika Kladusa region, and to encourage the return of the thousands of Bosnian Muslim refugees living in dire conditions in the Kupljensko area of Croatia.

43. The international community could not remain indifferent to the situation of the millions of displaced persons and refugees. In order to help them, their right to return must be reaffirmed and efforts should be made to secure the implementation of that right. It was also essential to create conditions for the reconstruction of civil society, particularly for the holding of free and fair elections and for building democratic institutions which would guarantee the rule of law and foster deep respect for human rights and fundamental freedoms. It was therefore of vital importance that the High Commissioner for Human Rights should be provided with all the necessary support and financial resources to enable him to develop adequate programmes. That should not be too difficult considering the considerable sums which had already been spent in financing United Nations operations in the former Yugoslavia.

44. The international community should bear in mind the vital role played by non-governmental organizations in the former Yugoslavia in the promotion of democracy and inter-ethnic cooperation. Those organizations should be assisted in their efforts for reconciliation; and the freedom of those groups to conduct their activities should be safeguarded at all costs.

45. In her recommendations she had strongly emphasized the fact that the entire population of the former Yugoslavia must have access to impartial and objective information. She had therefore urged all responsible authorities to remove legal, administrative and financial restrictions imposed on the media.

46. In her future work, she intended to devote much more attention to children. They must be looked after as soon as possible; they must be given the necessary care to heal their traumas, they must be helped to return to their homes and they must be provided with the education of which they had been deprived for

such long periods. That was a vital goal, because if the growing generation in the countries of the former Yugoslavia continued to be sacrificed, there would be little chance of achieving a lasting peace.

47. The European Union and many other donors were already considering the aid for reconstruction which they intended to provide to the countries of the former Yugoslavia. It was of vital importance that long-term aid should be given to those countries only on the express condition that human rights would be respected. That should also apply to the possible lifting of sanctions. Only humanitarian aid should be made available unconditionally.

48. There should be no impunity from crimes against humanity. Without justice, there could be no reconciliation, and without reconciliation, there could be no peace. All Governments and relevant authorities should therefore help the International Criminal Tribunal for the former Yugoslavia to carry out its task.

49. As it worked towards a just and durable peace in Bosnia and Herzegovina, the international community must remain firmly committed to upholding the principle of multi-ethnicity. It was necessary to ensure that any final peace settlement did not perpetuate population distributions attained through the practice of "ethnic cleansing"; any such agreement must recognize the rights of national minorities and in particular the right for the members of those minorities to return to their regions of origin.

50. Mr. COPITHORNE (Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran) said that, as he had indicated in his first report (A/50/661), he had only very recently been appointed Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, and he was not currently in a position to discuss questions of substance. However he expected to make a substantive report to the Commission on Human Rights at its fifty-second session, in the spring of 1996. He had received from the Iranian Government a positive response to the letter which he had addressed to it on 6 September 1995 asking for authorization to visit the Islamic Republic of Iran. He therefore still hoped to be able to gather the necessary information to draft his report in good time.

51. Mr. DENG (Representative of the Secretary-General on Internally Displaced Persons) said that when internal displacement resulted from natural causes or from conflicts among States, the Government of the country was generally prepared to provide support to the affected populations. However, when displacement was caused by internal conflicts, communal violence or systematic human rights violations, Governments or other controlling authorities tended to forget that they had a moral and legal duty to protect and assist the victims. Instead they tended to see them as enemies and therefore to show no solidarity with them. That led to a power vacuum which often required the international community to provide the necessary protection and assistance to the affected populations.

52. Working closely with specialized institutions and legal experts, he had completed the compilation and analysis requested by the Commission on Human Rights, and was finalizing the document, which would be submitted to the Commission at its next session. The expert panels had concluded that the law

should be restated more explicitly or reformed. There were however two schools of thought: some considered that it was simply a problem of implementation, and feared that the development of new standards would narrow the scope of the existing laws and would have a retrogressive rather than progressive effect; others thought that a legal reform was necessary because, apart from obvious weaknesses (an expressed right not to be displaced, access to protection and assistance during displacement, and ensuring a secure return and reintegration), there was a need to consolidate the existing norms which, while providing a basis for protection and assistance, were too dispersed and diffuse to be effective.

53. He could only welcome a debate which was centring attention on internally displaced persons. Given the momentum built up in recent years, he favoured the development of an instrument, whether it be a statement of principles, a code of conduct, a declaration or a fully-fledged convention, which would consolidate the norms, focus attention and, by so doing, serve an educational purpose. The fact that he was requested within the terms of his mandate to develop the legislation necessary to meet that challenge implied that the political climate was ripe for such a step. He recommended a modest, cautious, but progressive approach.

54. The other aspect of his mandate involved institutional arrangements. Although it was generally recognized that there was no institution with responsibility for protecting and assisting internally displaced populations, it was also true that many organizations were becoming involved with those groups. Furthermore, States had shown no willingness either to create a new organization for internally displaced populations, or to designate one agency with sole responsibility for them. The solution, therefore, appeared to be a collaborative arrangement between the wide variety of agencies and organizations whose mandates and activities were relevant to the problems of internally displaced persons, which raised the question of coordination. Although some institutions were beginning to function as coordinating bodies, which promised to bring a certain coherence to the international system, their effectiveness could only be judged in time. He had maintained close contact and exchanged views regularly with the United Nations agencies and other intergovernmental and non-governmental organizations whose mandates and activities related to internally displaced persons. He saw his role as involving advocacy and awareness raising, not only through studies and periodic reports, but also through country visits and dialogue with Governments. After outlining a typical programme of activities during a country visit, he explained that his dialogue with Governments was based on the premise that internal displacements were primarily an internal affair falling within the domestic jurisdiction and, therefore, the sovereignty of the State concerned. From a normative standpoint, however, State sovereignty carried with it the responsibility for the security and welfare of the State's citizens. If a State was aware that it could not fulfil that responsibility, it was expected to request the help of the international community. If, however, the State failed to carry out its obligations, with the result that the physical and social integrity, or even the survival, of the populations concerned was threatened, the international community must hold the State accountable and obtain access to those populations to provide the necessary protection and assistance.

55. A three-pronged approach should be adopted. First, there was a need to look beyond the conflicts, violence and human rights violations, to the deeper causes, which were rooted in national identity crises, the denial of democratic freedoms and fundamental human rights, and the deprivations caused by poverty and severe underdevelopment. Second, it was necessary to study the consequences of those situations, the humanitarian tragedies they provoked and the sudden and massive population displacements they generated. Third, remedies must include both a response to the emergency needs of the situation and a search for lasting solutions, or, in other words, prevention, protection and assistance, and the return, rehabilitation and reintegration of those populations, as well as sustainable development.

56. When intervening, Governments and the international community must resolve the tension between humanitarian and human rights concerns, which some people wished to keep separate, though experience had shown that they complemented and reinforced one another. A related problem was the need to integrate the approach of the humanitarian agencies, which tended to emphasize assistance, with that of the human rights agencies which concentrated on protection for the internally displaced. The ideal solution would clearly be to promote human dignity in all its different aspects. The other dilemma was whether it was better to help all those who needed protection and assistance without any distinction among the groups, or, whether the internally displaced should be considered as a particularly vulnerable group. His experience showed that those two viewpoints were complementary since, while the internally displaced required urgent international attention because of their vulnerability, they represented a microcosm of the affected community and, therefore, a starting point from which far wider needs could be met.

57. It must never be forgotten that behind the statistics, concepts and operational schemes were individuals caught in tragic situations whose only hope was a universal respect for the notion of human dignity, even if that was limited to the minimum for life, namely safety, food, shelter, water, medicine and basic education. That was why humanitarian and human rights concerns should be seen as indissolubly linked and why dialogue with Governments and other actors was of such importance and urgency.

58. Mr. AMOR (Special Rapporteur of the Commission on Human Rights), introducing the interim report on the implementation of the Declaration on the Elimination of All Forms of Religious Intolerance and of Discrimination Based on Religion or Belief (A/50/440), said that, in parallel with the development of legislation at the international, regional and national levels, the consideration of the question of religious intolerance by the General Assembly and the Commission on Human Rights, as well as the adoption of ever more specific resolutions on that subject, were contributing to the emergence of a new state of mind and a new type of attitude and behaviour involving a new form of interaction between peoples and the international community, a new perception which had fostered greater collaboration between States and the Special Rapporteur on religious intolerance. States which were the subject of numerous communications inquiries and in situ visits generally showed commendable willingness to cooperate and engage in dialogue. Non-governmental organizations, particularly those in the north, were doing a remarkable job in the fields of advocacy and protection, and, thanks to the joint action of the

international community, States and non-governmental organizations, international public opinion was becoming favourable to the idea of controlling and combating all forms of intolerance and discrimination based on religion or belief.

59. A great deal remained to be done, however, and the difficulties encountered were often very numerous. The following facts emerged as a result of action taken between 1988, the date of the first report on religious intolerance, and 1995, the date of the most recent report: first, the total number of communications transmitted to States, not including those discussed during in situ visits, was 265, of which 224 were allegations, 34 reminders and 7 urgent appeals. Second, the communications concerned 74 States, some of which had been contacted two or three times a year. On the average, 26 States received communications each year (7 in 1988 and 49 in 1995). As information was not always available and material and human resources were limited, the Special Rapporteur was obviously unable to examine all violations of the 1981 Declaration throughout the world. Third, of the 74 States to which communications had been sent, 23 (or about 30 per cent) had never replied and the proportion of replies ranged from 23 to 81 per cent. States and the major United Nations bodies should therefore pay greater attention to the phenomenon of religious intolerance. Fourth, the violations examined in the allegations did not always reflect the true scale of existing violations in States. Fifth, allegations transmitted to States between 1988 and 1995 included, in addition to related violations, 604 cases of violations of the provisions of the 1981 Declaration, the most numerous of which each year (184) related to the rights to life, to physical integrity and to security of person. Sixth, intolerance was not confined to a single State or a single religion. States of the South were involved in violations to the same extent as States of the North and, according to the allegations, the Christian religion gave rise to more numerous violations than other religions. Seventh, the communications showed that more attention was given to the management of intolerance and discrimination than to its prevention, since the causes of intolerance tended to be concealed by the effects. His action would be impeded until such time as the religious phenomenon was better understood and appropriate means were made available to encourage a preventive approach and to promote, particularly through education, a culture of religious freedom, tolerance and non-discrimination.

60. Interreligious tolerance was not helped by the fact that each religion tended to view itself as the sole depositary of the truth. Moreover, the fact that each religion was tempted to oppose any trend which it perceived as deviant was not conducive to intrareligious tolerance, in particular tolerance of religious minorities. Moreover, religious extremism was gaining ground and seemed in some cases to pose a threat to entire regions. The political and religious dimensions, when overtly or covertly interlinked, determined attitudes and behaviour, exacerbated tension and fuelled conflict. The reality often lagged behind tangible progress in the legal sphere. Concern to defend the right to peace should promote greater international solidarity with a view to curbing all forms of religious extremism by tackling both cause and effect, without any selectivity or ambivalence, and by establishing, as a first step, a minimum set of rules and principles of conduct and behaviour.

61. It was also crucial to reserve places of worship for religious rather than political purposes. In particular, schools should be sheltered from any ideological, political or sectarian indoctrination. In view of the priority role of education, he had carried out a survey of the place assigned to questions of a religious nature in school curricula and textbooks in primary and secondary educational establishments and urged all States to reply to the questionnaire that had been addressed to them.

62. He would be unable to fulfil his mandate without an increase in the material and human resources made available to him. Whatever the current difficulties of the United Nations, care should be taken to avoid marginalizing human rights activities and discouraging good intentions. It was also important to reassure all parties concerned by reaffirming the need to protect human rights while avoiding interference, rejection or evasion.

63. The proper way to respond to attitudes of reservation regarding religious freedom was through patient and resolute dialogue, based on facts and the participation of all parties concerned, operating in the framework of internationally established norms and seeking to determine possible action and to plan for the longer term. Progress depended on the avoidance of categorical, hasty, passionate or ill-considered behaviour and of blind prejudice and gratuitous accusations. It was wrong to prejudge and improper to generalize. An effort must be made to view reality coldly, in all its complexity, and to accept it as it was with a view to effecting a gradual change. The culture of human rights, in particular that of tolerance, could only be acquired and internalized over time through long-term action conducted in full awareness of the need to oppose tyranny and totalitarianism and anything that might contribute to the imposition of uniform attitudes, the suppression of freedom of conscience and the promotion of religious extremism, which was, in the final analysis, an insult to human intelligence and to divine wisdom.

64. Mr. DIENG (Independent expert on the situation of human rights in Haiti) said that, as noted in his report (A/50/714), progress had been made in the human rights situation in Haiti since the return of President Aristide. There were still, however, grey areas which threatened to undermine the peace and national reconciliation process in the medium term. Shortcomings in the judicial system and the police, for example, still prevented the country from restoring the rule of law.

65. The entire judicial system must be reformed. Judges must be retrained, particularly in the area of human rights. Despite the selection process, some members of the police force allegedly had a dubious background. The Haitian judicial system was deficient in all respects: it lacked resources, competent staff, independence, initiative and integrity. Arrest and preventive detention procedures were usually improper.

66. The shortcomings of the judicial system were undermining the country. Although human rights violations had declined sharply, they had been replaced by other forms of violence such as common crime. The police often failed to conduct thorough investigations of political murders because of a lack of resources and the requisite technical skills. Judges were afraid to try and sentence former members of the military regime for violations because they

feared reprisals after the departure of the troops deployed under the auspices of the United Nations. Besides fostering the culture of impunity in Haiti, that lack of resolve compounded by a lack of professionalism on the part of judges encouraged the population to adopt an attitude of defiance towards their country's judicial system and promoted a tendency to resort to summary justice, tempered, however, by the presence of the United Nations Mission in Haiti (UNMIH) and by the patrols of the Interim Public Security Force and the Haitian police.

67. The Haitian Government had initiated a programme of judicial reform, which was rendered more urgent by the wave of violence that had recently swept through Haiti following the assassination of a member of parliament close to President Aristide. The President, far from restoring calm through his funeral oration, had called on the population to join in the search for weapons held illegally by "criminals, terrorists and extremists" and had criticized UNMIH for a lack of vigour in its disarmament operation. It was true that many weapons were still circulating in Haiti: the disarmament operation had so far been almost exclusively confined to heavy weapons. In Port-au-Prince, demonstrators had searched vehicles for weapons. On 23 November, at least four persons had been killed following the death of a six-year-old girl killed by the police in Cité Soleil.

68. In such an explosive situation, he considered it essential to implement the recommendations contained in his report as swiftly as possible. Action must be taken to intensify judicial reform and the training of the police force, to relieve the overcrowding of prisons and make them more humanitarian, and to generate awareness of the principles of justice and democracy at all socio-professional levels.

69. The mandate of the International Civilian Mission in Haiti (MICIVIH) should be extended since it could pinpoint defects in the judicial system and participate in the training of judges. The Centre for Human Rights should also be given the resources to take over effectively from MICIVIH. In addition, it was absolutely essential to maintain the deterrent presence of the UNMIH troops after 29 February 1996 in order to safeguard the process of restoring democracy. A mass departure of the troops could doom the country to renewed violence and chaos.

70. The National Commission of Truth and Justice should be encouraged to pursue its activities, since national reconciliation began first and foremost with the establishment of the truth, which was necessary to put an end to the scourge of impunity. The international community should agree to replenish the Commission's budget so that it could complete its task.

71. The new Haitian Government, which the Parliament had elected by an overwhelming majority at the beginning of November 1995, should state clearly its intention to implement the Commission's recommendations, especially since the appropriateness of the recent appointment of one of the members of the Commission to the post of Minister of Justice was open to question. The Government should give its full support to the programme of economic reforms, particularly privatization, the blocking of which had led to the previous Government's resignation. The support of the international community and

greater understanding on the part of the Bretton Woods institutions would help to defuse the economic and social situation.

72. The Haitian people should view the upcoming presidential elections of 17 December 1995 with calm and would be encouraged to do so if the programme for providing education in democracy and voting techniques was implemented without delay. A peaceful and transparent election would show that transition to democracy was possible and that national reconciliation was under way.

73. Mr. FARHADI (Afghanistan) paid tribute to the late Mr. Ermacora, the Austrian lawyer who for several years in succession had reported on human rights in Afghanistan. He expressed gratitude to Mr. Choong-Hyun Paik, the new Special Rapporteur of the Commission on Human Rights, for the interim report that he had prepared on the situation of human rights in Afghanistan. Dean of the school of law of Seoul National University, Mr. Paik combined a solid knowledge of law with a clear gift for sociology. The recommendations that he had made following his brief mission to Afghanistan were particularly valuable since they came from a man who possessed the intellectual and moral qualities of an impartial scholar.

74. Professor Paik had left Afghanistan shortly before the country experienced another tragedy: the occupation of the western part of the country by certain reactionary forces. He emphasized the importance of the Special Rapporteur's future trips to Afghanistan, noting that they would enable him to verify the situation in certain cities of the south and the west that had come under the control of the forces in question, which had been encouraged by foreign elements. The closing of schools for girls in the city of Herat was a flagrant violation of an essential women's right, namely, the right to education. The right of boys to education had also been violated since female teachers could no longer travel to their place of work.

75. The Permanent Mission of Italy was currently drafting a text on human rights in Afghanistan, and he hoped that the Third Committee would adopt it by consensus. His delegation was prepared to provide the Permanent Mission of Italy with any assistance it might require.

76. Mr. RODRIGUEZ (Spain), speaking on behalf of the European Union, Bulgaria, Cyprus, the Czech Republic, Estonia, Latvia, Poland, Romania and Slovakia, said that international human rights instruments provided the framework that United Nations bodies should apply when carrying out their responsibilities with respect to the promotion and protection of human rights since those instruments contained the human rights standards established by the international community. However, the principles of universality, indivisibility and interdependence of human rights would not be given practical expression unless all countries acceded to those instruments. The follow-up to major United Nations conferences should provide an opportunity for intergovernmental bodies to pay special attention to their ratification. States acceding to such instruments should bear in mind that they could not fulfil their international obligation unless they began by ensuring that their domestic norms and procedures were in conformity with that obligation.

77. In accordance with the recommendations of the chairpersons of the treaty-monitoring bodies, the European Union called upon States that were considering ratification of a human rights instrument to avoid making it subject to broad reservations, whether such reservations concerned the basic provisions of the instrument or amounted to acceptance of only those obligations that were consistent with their domestic legislation. Such reservations could ultimately be incompatible with the purpose of the instrument and hence unacceptable under treaty law. In general, reservations should not be considered a way to acquire international respectability by adhering formally to a treaty while failing to apply the obligations it contained, in particular those concerning the right of victims of human rights violations to seek redress.

78. The treaty-monitoring bodies had an important role to play in the follow-up of international instruments and should be consulted on any proposal to draft new instruments. The European Union welcomed the innovative approach to treaty-monitoring outlined in the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, as well as the process initiated by the Commission on the Status of Women with a view to elaborating a draft optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women on a right-of-petition procedure.

79. Following the Vienna Declaration and Programme of Action, the Beijing Platform for Action affirmed the need to integrate the equalization of the status of women and the enjoyment of their basic rights into United Nations system-wide activities. The treaty-monitoring bodies should provide information on gender-based human rights violations and adapt their activities to the conclusions that they drew from their observations. Those bodies could play a major role in preventing such violations, in particular through the early-warning capacity advocated by the High Commissioner for Human Rights. Some treaty-monitoring bodies had adopted their own procedures for prevention and intervention. For example, they could bring situations of serious and systematic human rights violations to the attention of the Secretary-General and the United Nations High Commissioner for Human Rights. Furthermore, the chairpersons of treaty-monitoring bodies believed that the Security Council should take full account of States' obligations under international human rights instruments. The European Union welcomed the Secretary-General's intention to enhance cooperation between himself and the treaty bodies in the areas of early warning, preventive action and monitoring of human rights situations in different countries. By drawing attention to situations that posed a potential threat to peace and stability, the treaty bodies, in coordination with the High Commissioner for Human Rights, could help the Secretary-General to discharge his functions under Article 99 of the Charter, namely, to bring such situations to the attention of the Security Council.

80. The European Union fully endorsed the continued efforts undertaken by the High Commissioner for Human Rights to strengthen cooperation between monitoring mechanisms, including the special rapporteurs, and between those mechanisms and the United Nations as a whole. When necessary, technical assistance could be provided, in particular by non-governmental organizations, in the application of recommendations of the treaty-monitoring bodies. The High Commissioner also ensured that the specialized agencies supported the activities of the treaty-

monitoring bodies; the role of the United Nations Children's Fund (UNICEF) vis-à-vis the Committee on the Rights of the Child was a case in point.

81. In short, the enjoyment of human rights was closely linked to the international community's ability to ensure the universal ratification and implementation of instruments that dealt with the rights that all States represented in Vienna had pledged to protect.

The meeting rose at 1.25 p.m.